

REMARKS

This Amendment in an RCE is filed in response to the Final Action of March 16, 2010 in which claims 1, 4-9, 37, 43, 45, 46, 51, 53, 54, 56-62, 64, 66 and 69-74 were rejected and claims 6, 7, 60 and 61 objected to.

I. Amended claims

The following amendments have been performed in the claims:

- Previously presented independent claim 1 has been slightly recast. The according amendments are based on the previously presented claim 1 and, additionally, the disclosure on page 54, second full paragraph of the specification of the present patent application.
- In independent claims 45-46, 64 and 69-70, amendments corresponding to the amendments in claim 1 have been made.
- In dependent claims 4-5, 8, 37, 51, 53-54, 56, 58-59 and 62, the wording "from said sender" has been cancelled.
- Dependent claims 6-7 and 60-61, respectively, have been amended based on their original content and on page 9, third and fourth full paragraphs of the specification of the patent application.
- Dependent claims 43 and 66 have been amended to pertain to a *non-transitory* computer readable storage medium based at least on the disclosure of previously presented claims 43 and 66 and on the recommendation by David J. Kappos published on February 23, 2010 in the Official Gazette (1351 OG 212) on Subject Matter Eligibility of Computer Readable Media.

II. Formal rejections and objections

1. In item 2 of the Office Action, the Examiner considers the claims 1, 6-7, 9, 45-46, 57, 60-61, 64, 69-74 of the present patent application to belong to a non-statutory class and, therefore, the Examiner rejects these claims.

Claim 1 has been amended in the preamble to recite that the method is performed by an apparatus comprised in a receiver, the receiver now being explicitly mentioned in the body of

the claim as well. The apparatus of claim 45 has been amended to recite that the communication unit of the apparatus communicates to a plurality of receivers and claim 46 has been similarly amended. Independent method claim 64 has been amended to the preamble thereof to recite that the method is performed by an apparatus comprised in a sender. The body of the claim has also been amended to recite that the communicating is to a plurality of receivers. Independent claims 69 and 70 have been similarly amended to recite receivers. As such, it does not seem any longer possible to interpret these claims as being embodied in software or a program per se and thus claims 1 and 64 are statutory processes carried out by an apparatus and claims 45-46 and 69-70 are within the class of an apparatus falling under the statutory category of a machine, manufacture, or both. Withdrawal of the 35 U.S.C. § 101 rejection is requested.

2. In item 3 of the Office Action, the Examiner objects claims 45, 46 and 73, because of alleged failure of the specification to provide a proper antecedent basis for the claimed subject matter. In particular, the Examiner refers to the wording "communication unit" and "reception unit", respectively.

Applicant respectfully submits that, according to the specification of the present invention, for instance, a physical connection (i.e. a wireless or wire-bound connection) may be established between a sender and a plurality of receivers; and that, furthermore, session parameters and data are communicated from the sender to the plurality of receivers (cf. page 53, first paragraph of the specification). Thus, both sender and receivers must comprise according physical units, such as a communication unit for communicating session parameters and data to receivers and a reception unit for receiving session parameters and data from a sender, respectively, between which a physical connection can be established. Apparently, for a person skilled in the art, these physical units are at least implicitly disclosed in the specification of the present patent application.

In the claim language, a receiver, for instance, relates to an apparatus comprising a (physical) reception unit and a sender, for instance, relates to an apparatus comprising a (physical) communication unit. The specification has been amended at page 53 to provide explicit support for the claim language.

For the above reasons, Applicant respectfully requests the Examiner to reconsider his argumentation and to withdraw the according objection raised in item 3 of the Office Action.

3. Previously presented claims 6-7 and 60-61 allegedly lacking a further limitation of the subject-matter of a previous claim have been amended and are presently considered to overcome the according objection raised in item 4 of the Office Action. Withdrawal thereof is requested.

III. Subject-matter of the present invention

The present invention, as expressed by the amended independent claims, relates to conveying parameters for broadcast/multicast sessions via a communication protocol. A repair type parameter that is indicative of a point-to-multipoint repair session, a point-to-point repair session or both is received at a plurality of receivers. The repair session is requested at by at least one receiver of the plurality of receivers if said receiver did not correctly receive data sent to the plurality of receivers in a transmission session, wherein in the repair session, at least a part of the data sent to the plurality of receivers in the transmission session is sent at least to the receiver that requested the repair session. In the repair session, data is then received at the one receiver that requested the repair session, and the repair session is of the type indicated by the repair type parameter.

IV. Newly introduced prior art

US 7,043,196 (*Kawai et al.*)

Kawai relates to data relating to the status of users in a mobile communications system that is broadcast via satellite from a network register to local registers in an HDLC format. Each of the local registers requests retransmission of any HDLC frames which are incorrectly received. The network register records the earliest transmitted frame not yet acknowledged by all of the local registers and inhibits transmission of new frames if they fall outside a transmission window relative to the earliest transmitted frame. The network register polls the local registers for retransmission requests and the local registers also send unsolicited requests to the network register. The network register only retransmits a frame once if multiple requests for that frame are transmitted within a predetermined period.

V. Novelty and non-obviousness of the amended independent claims

In this section novelty and non-obviousness of the present invention is analyzed particularly based on the subject-matter of amended independent claim 1.

Kawai may be considered to disclose that a repair session is requestable by at least one receiver of a plurality of receivers that did not correctly receive data sent to the plurality of receivers in a transmission session (cf. col.1, l.39-53 & col. 2, l. 17-25); that, in the repair session, at least a part of the data sent to the plurality of receivers is at least sent to the receiver requesting the repair session (cf. col.1, l.39-53 & col. 2, l. 17-25); and that at least the receiver requesting the repair session receives the data sent in the repair session (cf. col.1, l.39-53 & col. 2, l. 17-25).

However, *Kawai* clearly fails to disclose that a repair type parameter that is indicative of the type of a repair session (i.e. point-to-multipoint, point-to-point or both) is received by a plurality of receivers and that the repair session requested by one receiver of the plurality of receivers is of a type indicated by the repair type parameter.

Thus, the subject-matter of amended independent claim 1 is novel over *Kawai*.

According to the present invention, a repair type parameter transmitted from a sender to a plurality of receiver may, for instance, indicate that a point-to-point repair session is available (cf. p.54, 3rd paragraph). Alternatively, it may, for instance, be indicated that a point-to-multipoint repair session is available. Thus, in the case of an erroneous reception of data transmitted from the sender to the plurality of receivers, one or more receivers of the plurality of receivers may take part in a repair session in accord with the received repair type parameter.

To avoid any misunderstandings, it must be clearly pointed out that *Kawai* pertains to a point-to-multipoint system (cf. Fig. 1 & col. 7, l. 55-57) in which data is broadcasted to a plurality of receivers and selected portions of data are rebroadcasted in response to an error correction signal (cf. col. 7, l. 21-47). In other words, data that is not correctly received by a receiver in a point-to-multipoint transmission session is retransmitted in a point-to-multipoint repair session interrupting the actual transmission session. Apparently, *Kawai* does only relate to point-to-multipoint sessions and point-to-multipoint repair sessions and, thus, necessarily fails

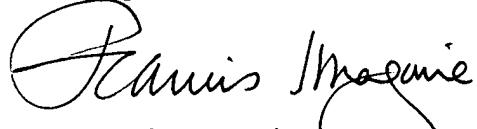
to disclose that any parameter indicating the type of a repair session is communicated from the sender to the receivers. Therefore, it is not apparent at all that the inventive concept of the subject-matter of amended independent claim 1 of the present patent application is even suggested much less rendered obvious by *Kawai*.

In this respect, it is submitted that the amendments performed in independent claim 1, *inter alia*, clarify that the repair type parameter is received by an apparatus comprised in a receiver and that, then, this receiver requests an according repair session being of a type indicated by the repair type parameter.

The subject-matter of amended independent claim 1 is novel and non-obvious with respect to *Kawai*, and the subject-matter of correspondingly amended independent claims 45-46, 64 and 69-70 of the present invention is, thus, also novel and non-obvious with respect to *Kawai*. Therefore Applicant kindly requests the Examiner to withdraw the novelty rejection of claims 1, 5-7, 43, 45-46, 57, 59-61, 64, 66, 69-70, the obviousness rejection of claims 4, 58, 71-74 and the obviousness rejection of claims 8-9, 37, 51, 53-54, 56 and 62 and to indicate the subject-matter of the amended set of claims to be allowable.

The objections and rejections of the Office Action of March 16, 2010, having been obviated by amendment or shown to be inapplicable, withdrawal thereof is requested and passage of claims 1, 4-9, 37, 43, 45, 46, 51, 53, 54, 56-62, 64, 66, and 69-74 to issue, is earnestly solicited.

Respectfully submitted,



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